REMARKS

Applicants hereby traverse the current objections and rejections, and request reconsideration and withdrawal in light of the remarks contained herein. Claims 1-19 are indicated as having allowable material. Claims 1-19 are pending in this application.

Claim Objections

Claims 1 and 9 are objected to under 37 C.F.R. § 1.75 for not pointing out and distinctly claiming subject matter.

According to the Examiner, claims 1 and 9 should be amended to include "a memory array of a plurality of elements". Applicants submit that this amendment to claims 1 and 9 is not necessary. The amendment suggested by the Examiner is directed towards the breadth of claims 1 and 9. Applicant respectfully reminds the Examiner that the breadth of a claim is not to be equated with indefiniteness, nor should it be equaled with a lack or particularity or distinctness. Applicants have defined the invention of claim 1 as a method the comprises testing, detecting, repairing, and inhibiting. Applicants have defined claim 9 as a computer program product the comprises means for locating, means for replacing, and means for inhibiting. Applicants have particularly pointed out and distinctly claimed the subject matter that they consider as their invention or discovery. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw this objection of record.

Rejection under 35 U.S.C. § 101

Claims 1 and 9 are rejected as being directed to non-statutory subject matter.

The M.P.E.P. requires that to be statutory, a claimed computer-related process must either: (1) result in a physical transformation outside the computer for which a practical application in the technological arts is disclosed in the specification, or (2) be limited by the language in the claim to a practical application within the technological arts. M.P.E.P. § 2106(IV)B(2)(b) citing Diamond v. Diehr, 450 US at 183-184, 209 U.S.P.Q. at 6.

According to the M.P.E.P., it is necessary to claim a practical application for a computer related invention if the process merely manipulates concepts or converts one set of numbers into another. Furthermore, for a process that merely manipulates an abstract idea or performs a purely mathematical algorithm to be statutory, the claimed process must be

limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. § 2106(IV)B(2)b(ii). See Alappat, 33 F.3d at 1543, 31 U.S.P.Q. 2d at 1556-57. Applicants respectfully assert that, as is evident from the examples in the M.P.E.P. § 2106(IV)B(2)b(ii), the language requiring a claimed practical application is directed to systems where purely mathematical algorithms are executed or systems where the claims are confined to manipulation of the internal structure of the computer system itself.

Claim 1 is a method claim that defines a method for managing an error in a plurality of elements. The Examiner has not provided any basis for his supposition that a claim is non-statutory if the claimed method can be carried out by an abstract computer system or by hand. Applicants do not know of any basis that can support the Examiner's position. Moreover, the steps of testing and detecting involve interaction with real world elements and thus the claimed method is not merely the manipulation of an abstract idea or concept, nor does not merely convert one set of numbers into another. Consequently, the claim does not need to specifically claim a practical application. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. § 101.

Claim 9 is a computer program product claim or Beauregard claim. The M.P.E.P. states that a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory, see M.P.E.P. § 2106(IV)(B)(1)(a), see also In re Beauregard, 35 U.S.P.Q.2d 1383 (Fed. Cir. 1995). The present invention of claim 9 recites a computer program product having a computer readable medium having computer program logic recorded thereon for managing an error in a plurality of elements that comprises means for locating, means for replacing, and means for inhibiting. Thus, the invention as claimed is defines a program product claim. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 9 under 35 U.S.C. § 101.

Conclusion

The Examiner is thanked for the indication that claims 1-19 include allowable subject matter.

For all the reasons given above, the Applicants submit that the pending claims distinguish over the prior art of record and are statutory under 35 U.S.C. § 101. Accordingly, the Applicants submit that this application is in full condition for allowance.

Applicants respectfully request that the Examiner call the below listed attorney if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10004547-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV482710416US in an envelope addressed to: M/S Amendment, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313.

Date of Deposit: August 04-2005

Typed Name: Joy H. Perigo

Signature:
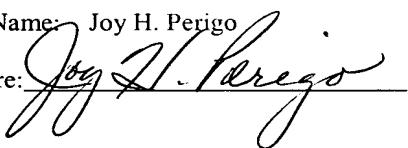
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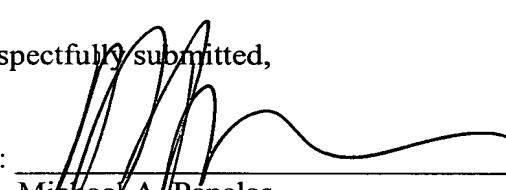
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